United Nations A/71/988

General Assembly

Distr.: General
21 July 2017

Original: English

General Assembly
Seventy-first session
Agenda item 58
Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Letter dated 14 July 2017 from the Permanent Representative of Namibia to the United Nations addressed to the Secretary-General

I have the honour to request that the attached letter, addressed to you by Mr. Brahim Ghali, Secretary-General of the Frente Polisario (see annex), be circulated as a document of the General Assembly, under agenda item 58.

(*Signed*) Neville **Gertze**
Ambassador and Permanent Representative

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Annex to the letter dated 14 July 2017 from the Permanent Representative of Namibia to the United Nations addressed to the Secretary-General

Bir Lehlou, 13 July 2017

I would like to draw your attention to a serious development relating to the question of Western Sahara that may have adverse consequences for the United Nations ongoing peace process there and challenge its responsibility regarding the protection of the territorial integrity of this Non-Self-Governing Territory.

On 6 July 2017, the Government of Morocco adopted a bill on delimiting the Moroccan exclusive economic zone, including the waters off Western Sahara, with a view to "cementing" Morocco's illegal occupation and annexation of the Territory.

The Frente Polisario considers this bill null and void, as it constitutes a flagrant violation of international law and the status of Western Sahara as a Non-Self-Governing Territory on the United Nations agenda since 1963. It also represents a blatant disregard for the ruling of the International Court of Justice of 1975 and the judgement of the European Court of Justice of 2016, which reaffirm that Morocco has no sovereignty over Western Sahara, which enjoys, by virtue of the principle of self-determination, a status separate and distinct from that of any other State, including Morocco.

Throughout its occupation of parts of Western Sahara, Morocco never made an express claim to maritime zones adjacent to the coast of the Territory as it knows very well that such a declaration would be devoid of any legal value under international law. However, Morocco has always sought control over those areas by entering into commercial arrangements with foreign interests for the exploration and exploitation of the natural resources therein. Such arrangements include fisheries licences pursuant to the 2007 European Union-Morocco Fisheries Partnership Agreement, and reconnaissance and exploration licences in respect of Western Sahara's seabed petroleum resources.

The proposed bill is therefore a clear attempt by Morocco to consolidate its illegal annexation of Western Sahara. Moreover, if adopted, the bill will constitute a serious violation of the right to self-determination of the Sahrawi people and all its components including the right to permanent sovereignty over natural resources. It will also be a violation of other peremptory norms of international law including the inadmissibility of acquiring territories by force. Moreover, Morocco gave an implicit assurance that the territorial status of Western Sahara is to remain unchanged pending self-determination by accepting the 1991 United Nations-sponsored ceasefire and the referendum agreement. Therefore, without a substantial consultation with and the expressed consent of the Sahrawi people and their internationally recognized representative, the Frente Polisario, Morocco has no competence under international law to declare or establish, by litigation or negotiation with adjacent States, maritime boundaries for Western Sahara.

As you may be aware, on 21 January 2009, the Government of the Sahrawi Arab Democratic Republic declared an exclusive economic zone, making official the exclusive rights of the Sahrawi people to the living and non-living resources (including oil, gas and fisheries) within 200 nautical miles offshore of the internationally recognized territory of Western Sahara, as provided for under the 1982 United Nations Convention on the Law of the Sea.

The declaration of Sahrawi maritime zones, which equally declares for the Sahrawi Arab Democratic Republic a 12-nautical-mile territorial sea and a 24-nautical-mile contiguous zone, was also a further step aiming at preserving and

taking control of the Sahrawi natural riches, which have been plundered illegally for many years by Morocco and other foreign interests. In his report on the situation concerning Western Sahara of 13 April 2009 (S/2009/200 and Corr.1), the Secretary-General referred to the declaration of Sahrawi maritime zones and to the fact that "the declaration was based on the right of the people of Western Sahara to self-determination and to permanent sovereignty over their natural resources" (para. 4).

Therefore, due to the imperative nature of the international standards involved, all States and international organizations, including the United Nations, have an obligation under international law not to recognize, either de jure or de facto, the Moroccan proposed exclusive economic zone in so far as it includes the territorial waters of Western Sahara.

In view of the above, I would like to call on you to use your authority as Secretary-General to protect the territorial integrity of the Non-Self-Governing Territory of Western Sahara, including its territorial waters, in the face of Morocco's proposed move that will only complicate further the situation on the ground. It will also hinder the relaunching of the negotiating process with a new dynamic and a new spirit between the two parties, Morocco and the Frente Polisario, as called for recently by the Security Council.

In this regard, I would like to reiterate the readiness of the Frente Polisario to engage in serious negotiations with Morocco, under the auspices of the United Nations, with a view to achieving a peaceful and lasting solution that will provide for the inalienable right of the Sahrawi people to self-determination.

(*Signed*) Brahim **Ghali**
Secretary-General of the Frente Polisario